

ASSEMBLY BILL

No. 1319

Introduced by Assembly Members Bates and La Suer

February 21, 2003

An act to add Section 12302.6 to the Welfare and Institutions Code, relating to social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, as introduced, Bates. In-Home Supportive Services program.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law requires each county to establish, or act as, an employer for IHSS personnel for purposes of provisions of statutory law regarding employer-employee relations.

This bill would require the State Department of Social Services to establish a pilot program in 3 counties that choose to participate to require each county's IHSS employer of record to maintain a registry of providers who are available to provide services as an IHSS provider. The bill would require that the registry denote any IHSS provider who has voluntarily submitted to a criminal background check and obtained a criminal record clearance. The bill would further require that the registry additionally denote any individual who has obtained the criminal record clearance and has expressed a preference to be considered for immediate placement in temporary work. The bill would require the department to report to the Legislature, by January 1, 2007, on the results of the pilot program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12302.6 is added to the Welfare and
2 Institutions Code, to read:
3 12302.6. (a) The department shall establish a pilot program
4 in three counties that choose to participate in the registry program
5 established by this section. The department shall attempt to
6 include a county that has established a public authority for
7 purposes of the in-home supportive services program, and a
8 county that does not have a public authority, among the three
9 counties.
- 10 (b) In each pilot county, each employer of in-home supportive
11 service providers as determined pursuant to Section 12302.25
12 shall maintain a registry of providers who are available to provide
13 services for recipients pursuant to this article.
- 14 (c) (1) The registry required by this section shall denote any
15 provider who has voluntarily submitted to a criminal background
16 check and obtained a criminal record clearance pursuant to
17 subdivision (e).
- 18 (2) The registry shall additionally denote any provider who has
19 obtained a criminal record clearance pursuant to subdivision (e)
20 and who has expressed a preference to be considered for
21 immediate placement in temporary work.
- 22 (d) Providers who submit to a criminal background check for
23 any purpose described in subdivision (c) shall not be charged for
24 the cost of obtaining the criminal background check, except that
25 they may be assessed the usual and customary fee for the cost of
26 the rolling of fingerprints by a law enforcement agency or for
27 obtaining a fingerprint scan using livescan technology.
- 28 (e) (1) To obtain a criminal record clearance for purposes of
29 subdivision (c), the individual shall obtain fingerprints from a law
30 enforcement agency or other local agency authorized to take
31 fingerprints. The individual shall submit the fingerprints to the
32 State Department of Social Services with a completed form, as
33 prescribed by the department for this purpose. The department
34 shall transmit the fingerprint record and a copy of the form to the



1 Department of Justice. As an alternative, when available, livescan
2 technology may be used pursuant to this paragraph.

3 (2) The Department of Justice shall search the state and Federal
4 Bureau of Investigation criminal history information for a
5 criminal record.

6 (3) If the individual has been convicted of a crime, other than
7 a minor traffic violation, the Department of Justice shall provide
8 that information to the department. The department shall notify the
9 employer that the individual has been convicted of a crime other
10 than a minor traffic violation and that an appeal pursuant to
11 paragraph (5) is available.

12 (4) If no criminal record information has been recorded, or if
13 the record is limited to minor traffic violations, the Department of
14 Justice shall provide the department and the employer of record
15 with a statement of that fact.

16 (5) The department shall establish a process for individuals
17 convicted of a crime other than a minor traffic violation to appeal
18 the denial of a clearance. The process shall be similar in scope and
19 method to the process used by the department for community care
20 facilities, pursuant to Section 1522 of the Health and Safety Code.
21 The department may exclude convictions for certain crimes from
22 the appeals process, provided these crimes have a direct
23 relationship to the individual's capacity to deliver domestic and
24 personal care services.

25 (f) Each participating county shall submit annual reports to the
26 department on the operation of this section. The information
27 reported shall include all of the data specified in subdivision (g)
28 and any other information as determined by the department.

29 (g) The department shall submit a report to the appropriate
30 policy and fiscal committees of the Legislature on the results of the
31 pilot program established by this section on or before January 1,
32 2007. The department shall include, but not be limited to, all of the
33 following information in its report:

34 (1) The counties that chose to participate in the project and the
35 number of in-home supportive services providers in each county.

36 (2) The number of providers in each pilot county that
37 voluntarily submitted to a criminal background check and the
38 number of providers that did not.

39 (3) Of those providers submitting to a criminal background
40 check, the number that received a clearance, the number convicted

- 1 of a crime other than a minor traffic violation, and the number
- 2 requesting an appeal.
- 3 (4) The number of referrals from the registry to recipients of
- 4 in-home supportive services, and other uses of the registry.

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